IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.634 OF 2004
IN
NOTICE OF MOTION NO.117 OF 2004
IN
NOTICE NO.N/386 OF 2003

Kamal Shytamsunder Ruia — Appellant

vs.

SICOM LIMITED — Respondents

Mr.V.L.Desai for the appellant.

Mr.Kishore Jain i/b. Mr.G.R. Mehta for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 11th October 2004

P.C.

Heard Mr.V.L.Desai, the learned counsel for the appellant.

2. Admittedly the exparte decree dated 18th December 2002 against the present appellant holds the field as on date. Merely because the application for setting aside the exparte decree is pending, it cannot be said that a case for discharge of notice was made out.

3. Appeal, thus, does not deserves to be admitted.

4. Dismissed in limine. However, we observe that in

the event of appellant's application for setting aside the exparte decree being granted, the appellant shall be at liberty to take out a fresh notice of motion for discharge of notice.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)